

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

BRIAN A. MULLALLY, M.D.,

Plaintiff,

Case No. 14-cv-14433
Hon. Matthew F. Leitman

v.

STANDARD INSURANCE COMPANY,

Defendant.

ORDER DENYING MOTION TO STAY PROCEEDINGS (ECF #19)
AND DIRECTING PLAINTIFF TO RESPOND
TO OUTSTANDING DISCOVERY

This action is a dispute between an insurance company and one of its insureds. Plaintiff Brian A. Mullally, M.D., (“Dr. Mullally”) alleges in his Amended Complaint that Defendant Standard Insurance Company (“Standard”) has improperly refused to make certain payments to him under a policy he purchased from Standard. (*See generally* ECF #15.) Standard denies Dr. Mullally’s claims, and it counter-alleges that Dr. Mullally has retained over \$100,000 in benefits he was not entitled to receive. (*See generally* ECF #16.)

In early July, Standard contacted the Court by letter (pursuant to the Court’s practice guidelines) to complain that Dr. Mullally had not responded to interrogatories and requests for production of documents it had served upon him. On July 2, 2015, the Court held a telephonic status conference with the parties.

During that conference, counsel for Dr. Mullally informed the Court that Dr. Mullally had not responded to the outstanding discovery because he was receiving treatment for liver cancer. Dr. Mullally's counsel then asked the Court stay this action while Dr. Mullally receives treatment. The Court instructed Dr. Mullally's counsel to file a motion requesting a stay, and counsel did so on July 16, 2015. (*See* ECF #19.)

The Court has now reviewed Dr. Mullally's motion to stay proceedings (*see id.*) and Standard's response (*see* ECF #20). In the motion, Dr. Mullally's counsel suggests that an indefinite stay may effectively end this matter because there is a real possibility that Dr. Mullally will never recover to the point where he feels he can participate in the litigation. (*See* ECF #19.)

The Court fully understands and is sympathetic to the challenges Dr. Mullally faces as he battles liver cancer. The Court must carefully balance Dr. Mullally's circumstances against Standard's right to a fair and efficient adjudication of Dr. Mullally's claims and its counterclaim. If Standard is not permitted to take discovery from Dr. Mullally now, it may forever lose a critical opportunity to develop support for its serious counterclaim against him. The Court also notes that while Dr. Mullally's diagnosis appears to be undisputed, the motion requesting a stay is not supported by a letter from Dr. Mullally's physician attesting that Dr. Mullally cannot participate in any discovery. Under these

circumstances, the Court does not believe that an indefinite stay of proceedings is appropriate.

However, given Dr. Mullally's medical condition, an extension of time to respond to Standard's outstanding discovery is not unreasonable. The discovery was first served on Dr. Mullally on May 12, 2015. The Court will grant Dr. Mullally an additional 30 days from the date of this Order to respond to the discovery. This will have provided Dr. Mullally, in total, roughly four months to respond to the discovery. As this action moves forward, the Court will consider granting Dr. Mullally additional and/or other accommodations to enable him to participate in discovery and in the litigation.

Accordingly, for the reasons stated above, **IT IS HEREBY ORDERED** that Dr. Mullally's Motion for Stay of Proceedings (ECF #19) is **DENIED**. **IT IS FURTHER ORDERED** that Dr. Mullally is directed to respond to Standard's outstanding discovery within 30 days of this Order.

Dated: August 12, 2015

s/Matthew F. Leitman
MATTHEW F. LEITMAN
UNITED STATES DISTRICT JUDGE

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on August 12, 2015, by electronic means and/or ordinary mail.

s/Holly A. Monda
Case Manager
(313) 234-5113